Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of Amendment of the Commission's Rules Regarding Multiple Address Systems	WT Docket No. 97-81

To: The Commission

REPLY COMMENTS OF PRONET INC.

ProNet Inc. ("ProNet"), through its attorneys and pursuant to Section 1.419 of the Commission's Rules, 47 C.F.R. § 1.419, hereby replies to comments on the Commission's Notice of Proposed Rule Making ("NPRM") in the above-captioned proceeding.

I. INTRODUCTION AND OVERVIEW

In its Comments, ProNet opposed the Commission's proposal to subject the heavily licensed 928/959 MHz Band to geographic licensing and competitive bidding. Specifically, ProNet showed that: (1) the Commission's characterization of most operations in this band as "subscriber based" is entirely unsupported by the record; (2) subjecting 928/959 MHz to competitive bidding would result in disparate treatment *vis-a-vis* other spectrum allocated for control operations; and (3) geographic licensing will not promote efficient use of the 928/959 Band. ProNet also demonstrated that, should the Commission adopt geographic licensing for the 928/959 and 928/952/956 Bands, interference protection to incumbent MAS licensees should be based on existing fixed mileage separation standards in Parts 22 and 101 of the Rules, rather than the proposed 25 mile service area; such a

limited service area is unduly restrictive and incompatible with MAS's current use by commercial mobile radio service ("CMRS") carriers for control purposes.

The positions summarized above received substantial support in other filed comments and should be adopted. For reasons discussed below, ProNet opposes those parties who assert that existing "subscriber-based" systems, including MAS transmitters used to control paging operations, should be forcibly relocated from the 928/952/956 Band. Instead, ProNet supports proposals to institute additional efficiency-enhancing procedures, including frequency coordination for new applications and a finders' preferences to retrieve fallow spectrum.

II. THE COMMISSION SHOULD EXEMPT THE 928/959 MHz BAND FROM COMPETITIVE BIDDING AND GEOGRAPHIC LICENSING

Each of the reasons enumerated above for exempting the 928/959 MHz Band from competitive bidding and geographic licensing is amply supported by other commenting parties. First, the Commission's characterization of existing usage of 928/959 MHz MAS as "subscriber based" is inaccurate. ProNet demonstrated in its Comments (at 2-5) that the 928/959 MHz Band is substantially used by paging carriers to control base transmitting facilities and that such use is a type of "intermediate link," *i.e.*, a service not offered to subscribers, but ancillary and providing support to other communications services.[1/]

Agreeing with ProNet, Airtouch Paging ("Airtouch") and Arch Communications Group ("Arch") describe controlling paging facilities with MAS frequencies as "not . . . a commercial

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[1/]As employed by ProNet and other paging carriers, MAS facilities are not used in a manner enabling subscribers to "receive communications signals" or to "transmit directly communications signals" as mandated by Section 309(j)(2)(A) of the Communications Act of 1934, as amended (the "Act").

subscriber usage, but rather . . . an intermediate link usage akin to an internal system of communication."[2/] According to the Personal Communications Industry Association ("PCIA"), paging and narrowband PCS operators use 900 MHz MAS for "intermediate links" which provide "backbone circuits."[3/] The Commission previously declined to subject intermediate links to competitive bidding under Section 309(j)(2) of the Act,[4/] and has offered no justification for reversing that decision here.[5/]

Second, the Commission has refrained from subjecting to competitive bidding other frequency bands designated for control purposes— including, *inter alia*, 72-76 MHz band, point-to-point microwave channels licensed under Part 22 of the Rules, and 928/952/956 MHz MAS. These frequencies, however, are used in exactly the same manner as paging and other CMRS carriers use the 928/959 MHz Band.[6/] ProNet agrees with Airtouch/Arch (at 5) that this disparate treatment may skew the marketplace for control link spectrum and constitutes unfair "double dipping" by subjecting

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[2/]Joint Comments of Airtouch and Arch (hereinafter "Airtouch/Arch"), at 3.

[3/]Comments of PCIA, at 1.

[4/]*Implementation of Section 309(j) of the Communications Act-- Competitive* Bidding (Second Report and Order PR Docket No. 93-253), 9 FCC Rcd 2348, 2355 (1994) ("*Competitive Bidding Second Report and Order*").

[5/]Comments of ProNet, at 4; Comments of Airtouch/Arch, at 4-5; Comments of PCIA, at 3, n.3. In addition, ProNet agrees with CellNet Data Systems, Inc. ("CellNet") (at 11, n.10) and Radscan, Inc. ("Radscan") (at 6-8) that the Commission has not clearly interpreted "subscriber based" and has improperly used this term interchangeably with "private carrier." Properly understood, "subscriber based" services are offered to the public and are characterized by competition for subscribers. These characteristics arguably do not apply to CellNet's use of its MAS network as a "communications resource" in the provision of meter-reading services; they certainly do not apply to intermediate links.

[6/]Comments of ProNet, at 5-6; Airtouch/Arch, at 5; Comments of PCIA, at 3.

paging carriers to auction costs for both base and control spectrum.[7/]

Third, ProNet's claim that geographic licensing in the heavily used 928/959 MHz Band will promote spectral inefficiency is supported in other comments. Comsearch, Inc. ("Comsearch") states that geographic licensing of heavily used spectrum will obstruct efficient deployment of facilities by creating "'economic and operational serfdom,' with incumbent licensees subject to the will and bidding of the geographic area licensee."[8/] CellNet notes that the MAS universe is characterized by numerous licensees operating in relatively discrete areas, making coordination by a geographic licensee extremely difficult.[9/] Similarly, PCIA fears that flexible use of MAS spectrum by a geographic licensee is likely to create interference with incumbents' existing receive sites.[10/] Site-by-site licensing has resulted in efficient use of the 928/959 MHz Band, while any benefits from geographic licensing are speculative and outweighed by the likely disruption to existing operations.

III. THE COMMISSION'S PROPOSED 25 MILE RADIUS SERVICE AREA IS INADEQUATE TO PROTECT INCUMBENT MAS OPERATIONS

ProNet discerned no support among commenting parties for the 25 mile radius service contour for incumbent MAS systems proposed in the NPRM. Such a restricted service area is irreconcilable with the present use of MAS for control purposes and will expose incumbents to unacceptable interference from geographic licensee operations.

[7/]Moreover, the Commission has previously recognized that auctioning intermediate links may hinder the development of new technologies by imposing unwarranted costs. Comments of PCIA, at 3, n.3.

[8/]Comments of Comsearch, at 5; *see also*, Comments of Black & Associates ("B&A"), at 6-7.

[9/]Comments of CellNet, at 24-25, n.25.

[10/]Comments of PCIA, at 4. *See also*, Comments of Delmarva Power and Light Co. ("Delmarva"), at 6-7.

Under existing rules, MAS transmitters encounter no bar to communicating with remote sites more than 25 miles away; indeed, such remote communications appear customary even for non-control operations in the MAS bands.[11/] Locating remote receive sites more than 25 miles away from the central MAS transmitter, however, is more prevalent (and the potential disruption from the Commission's proposal therefore more acute) where paging carriers use MAS to control base transmitters. As PCIA explains, control link antennas transmit to paging base stations that are typically mounted atop buildings or towers. Taking into account the line-of-site distance at heights hundreds of feet above average terrain, and the use of directional receive antennas, control of base stations 65 miles from an MAS transmitter is clearly feasible.[12/] A 25 mile service area simply bears no resemblance to existing use of MAS for control purposes and will provide insufficient protection to incumbent systems.

Instead, protection of incumbent MAS transmitters should be based on the fixed mileage separation requirements set forth in Section 101.105(c)(3) of the Rules.[13/] The Commission should enable incumbents to modify existing MAS transmitters in any way that has no amplifying effect

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[11/]Comments of B&A, at 7 (radii of up to 45 miles are feasible in mountainous areas); Comments of Alligator Communications, Inc., at 2; Comments of CellNet, at 27; Comments of GTech Corporation ("GTech"), at 7; Comments of American Water Works Association ("AWWA"), at 15.

[12/]Comments of PCIA, at 3-4; *see also*, Comments of B&A, at 7 ("Part 22 licensees in the 928/959 MHz Band operate with radii beyond 45 miles even in non-mountainous areas"). Indeed, ProNet currently controls remote paging transmitters located over 60 miles from its 928/959 MHz MAS transmitters. Controlling a greater number of transmitters over greater distances is efficient, reduces operating costs, and lowers the cost of services to the public. Comments of ProNet, at 8-9.

[13/]As its Comments state (at 9, n.19), ProNet supports harmonizing the co-channel separation rules governing Part 22 and Part 101 MAS. Specifically, the 90 mile separation required by Section 101.105(c)(3) should be adopted as the standard for fixed-to-fixed transmitters.

on signal level at the outer perimeter of that transmitter's protected area, *i.e.*, 90 miles from co-channel fixed stations.[14/] ProNet also supports PCIA's suggestion that the Commission extend interference protection to all existing 900 MHz MAS receivers used in controlling CMRS base facilities, which will prevent disruption of control operations that could otherwise occur even where geographic licensees comply with all co-channel separation requirements.[15/]

IV. ALL INCUMBENTS IN THE 928/952/956 MHz BAND MUST BE GRANDFATHERED

ProNet opposes Comsearch (at 3), AWWA (at 10) and the Washington Suburban Sanitary Commission ("WSSC") (at 6-7), who advocate forcibly relocating subscriber based systems from the 928/952/956 MHz Band. First, as discussed above, the asserted distinction between "private, internal communications" and "subscriber based" services is fundamentally flawed. Second, the alleged shortage of spectrum for private MAS is artificial and speculative. CellNet (at 18-20) asserts that large quantities of 928/952/956 MHz spectrum are lying fallow due to non-construction or failure of licensees to cancel licenses upon discontinuing operations; B&A estimates that as much as 25 percent of this spectrum is warehoused or no longer actively used.[16/] Comsearch also concedes that more stringent enforcement of existing construction requirements will partially relieve frequency

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[14/]This proposal conforms essentially to the interference protection afforded incumbent paging licensees in WT Docket No. 96-18, which the *NPRM* (at ¶20) characterized as a specific Commission objective in this proceeding. At a minimum, the Commission should adopt a service area of at least 45 miles, as suggested by ProNet (at 10) and CellNet (at 27-28).

[15/]Comments of PCIA, at 4; *see also,* Comments of CellNet, at 27; Comments of GTech, at 7.

[16/]Comments of B&A, at 5.

congestion, and urges more efficient use of spectrum by existing licensees.[17] Moreover, as noted in the NPRM, licensing the 932/941 MHz Band, which has been "on hold" for five years, will substantially alleviate the purported shortage.[18] Third, requiring paging carriers like ProNet to relocate to new spectrum will be inefficient,[19] and will impose substantial costs on carriers and thousands of subscribers whose service may be disrupted during the relocation process.[20]

Instead of considering relocation of incumbent MAS operators from the 928/952/956 MHz Band, the Commission should proceed with licensing of the 932/941 MHz Band, enforce existing rules governing construction and discontinuation of facilities, and adopt reforms suggested by several parties to minimize congestion and improve the licensing process. Specifically, ProNet agrees with CellNet and B&A that the Commission should establish a finder's preference program.[21] Should the Commission nevertheless decide to compel incumbent carriers to vacate the 928/952/956

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[17] Comments of Comsearch, at 3.

[18] Comments of CellNet, at 6-7.

[19] In most cases, MAS transmitters operated by paging operators control far more than the minimum four remote stations. Comments of PCIA, at 2; Comments of ProNet, at 8-9. Similarly, other communications companies operating in 928/952/956 MHz Band currently control far more remote units than the typical MAS licensee, and can provide comparable services at a fraction of the cost of separately-licensed MAS systems. *See* Comments of CellNet, at 4-5; Comments of Radscan, at 7-8.

[20] AWWA's unsupported claim (at 11) that paging companies "would profit by relocating their services to the proposed EA-based 932/941 MHz spectrum" ignores the substantial investment made in existing control links, the costs associated with modifying every receive station for a new frequency, and the costs associated with auctions open to any "commercial" applicant, as proposed for 932/941 MHz.

[21] Comments of CellNet, at 18-21; Comments of B&A, at 5. ProNet also supports Comsearch's proposal that the Commission adopt prior coordination procedures similar to those used in the point-to-point microwave bands.

MHz Band, beneficiaries of this relocation, *i.e.*, new licensees in the vacated spectrum, must be required to reimburse incumbents for all costs they incur as a result.[22/]

V. CONCLUSION

WHEREFORE, the Commission should modify its proposed rules consistent with the foregoing.

Respectfully submitted,

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[22/] *See, e.g., Redevelopment of Spectrum to Encourage Innovation in the Use of New Telecommunications Technologies*, First Report and Order in ET Docket No. 92-9, 7 FCC Rcd 6886 (1992) (requiring all expenses incurred by a relocating incumbent-- including engineering, equipment, site costs and licensing fees-- to be paid by the new licensee).

CERTIFICATE OF SERVICE

I, Maleesha Spriggs, a secretary in the law offices of Gurman, Blask & Freedman, Chartered, do hereby certify that I have on this 16th day of May, 1997 caused copies of the foregoing "REPLY COMMENTS OF PRONET" to be sent first class mail, and postage prepaid to the following:

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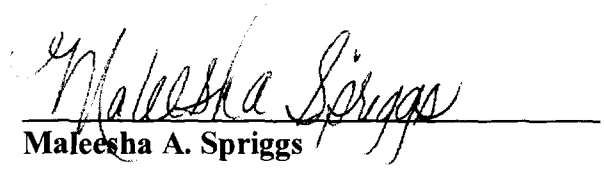

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